IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3176 OF 2006

M/s.Trendy Togs Pvt. Ltd. ...Petitioner
V/s.
The Collector & District Magistrate
Mumbai City & Ors. ...Respondents

Mr.R.D. Soni i/b. Ram & Co. for the Petitioner.
Mrs.M.P. Thakur, AGP, for the Respondents.

CORAM : R.M. SAVANT, J.
DATE : March 7, 2007.

P.C.:

Rule,

. With the consent of the parties made returnable forthwith and heard. The petition impugnes the Notice No.Rev/LDR/9/51/05-06-Labour dated 29.04.2006 issued by the Tehsildar, Government/Labour Dues Recovery. By the said notice the property belonging to the petitioner is sought to be attached. Such of the facts which are necessary to be cited are stated thus.

. The petitioner is the owner of flat bearing No.1101 in a building known as ’Benhur’ situated at Narayan Dabholkar Road, Bombay. The petitioner has a Sale Deed in its favour executed between the petitioner and one M/s.Anjani Agrico Implements Ltd. It appears that one Mr.Suresh Taparia and Smt.Shrikanta Taparia are the tenants in the said flat, which tenancy was created by the petitioner’s vendor. The said Mr.Suresh Taparia and Smt.Shrikanta

Taparia were carrying out business in the name and style of M/s.Houte Couture. In respect of the said business establishment the workers working therein approached the Labour Court for various reliefs suffice it to say that an award came to be passed by the Labour Court for an amount of Rs.16,62,512/- against the said establishment M/s.Houte Couture. In view of the non-compliance of the said award by the said establishment, a notice dated 20.03.2006 came to be issued by the office of the Collector under section 267 of the Maharashtra Land Revenue Code purporting to attach the said flat No.1101 owned by the Petitioner in the said 'Benhur' building for recovery of the said amount of Rs.16,62,512/-. It was mentioned in the said notice that the Tehsildar, Government/Labour Dues Recovery, Bombay, or his representative nominated on his behalf shall conduct the sale of the said flat and furniture and fixtures lying therein on 20.04.2006. A proclamation also came to be issued on 27.03.2006 in respect of the said flat and the movables. When the petitioner's representatives visited the said building on 12.04.2006, they came across the said notice and proclamation and therefore immediately on 14.04.2006 the petitioner addressed a letter to the Respondents informing them that the flat belongs to the petitioner and that said Mr.Suresh Taparia and Smt.Shrikanta Taparia were tenants in the said flat and therefore the said flat could not be attached as the said property did not belong to the defaulters. The Benhur

Society also vide letter of the said date i.e. 13.03.2006 informed the authorites that the flat stood in the name of the petitioner. It appears that pursuant to the said correspondence, the authorities withdrew the said notice and proclamation on 28.04.2006.

. Notwithstanding the said withdrawal, a fresh notice has again been issued which is impugned in the present petition. In the teeth of the withdrawal of the said notice, it was incombent on the authorities to atleast call upon the petitioner as to why the said property should not be attached. It is an admitted position that the same has not been done by the authorities.

. In that view of the matter it would be just and proper to direct the authorities to consider the numerous documents filed by the petitioner alongwith its letter dated 13.04.2006 and to also give an opportunity to the petitioner to set out its case and after carrying out the said exercise, the authorities to pass appropriate orders in accordance with law. The authorities to give a notice to the petitioner within two weeks from date and thereafter to pass appropriate orders within a further period of eight weeks. Consequently the impugned Notice No.Rev/LDR/9/51/05-06-Labour dated 29.04.2006 in so far as the petitioner is concerned is set aside, Rule

is accordingly made absolute to the aforesaid extent with no order as to costs.

(R.M. SAVANT, J.)